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Are Sanctions Necessary to International Organization?

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• YES

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FOREWORD

As the recent crisis in the Far East indicated, with startling and disconcerting suddenness, no question is more immediately vital to world peace than this: Are sanctions necessary to international organization?

The FOREIGN POLICY ASSOCIATION considers it a privilege to present to its members and to the public these statements on sanctions by Professor John Dewey of Columbia University and Mr. Raymond Leslie Buell, Research Director of the F. P. A. Neither writer speaks for anyone except himself. It is our hope that these two divergent views on this basic problem will evoke widespread discussion. We should welcome comment.

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New York, N. Y.
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Are Sanctions Necessary To International Organization?

Yes - Raymond Leslie Buell

PART I

FORCE AS A NECESSARY COROLLARY OF LAW

As a result of six months' fighting, in which thousands of lives have been lost and vast amounts of property destroyed, Japan, in violation of its obligations under the League Covenant and the Anti-War Pact, has succeeded in separating from China its northernmost provinces and in securing the establishment of an "independent" state in Manchuria under Japanese control. While the world attempted to restrain Japan by "moral pressure," League members did not apply to Japan the provisions of Article 16 of the Covenant for the imposition of economic and military sanctions against a state which illegally goes to war.

Would not the Mukden incident, out of which the Sino-Japanese fighting arose, have been quickly settled had League members promptly applied all the provisions of the Covenant to Japan and China? Would not Manchuria be part of China today, and would not the Shanghai episode have been prevented altogether had League members, in cooperation with the United States, early demonstrated their intention of applying economic sanctions unless the parties to the dispute submitted it to some form of adjudication? Has not the failure of the League and the United States in the recent Sino-Japanese crisis been due partly to unwillingness to apply sanctions, and has not this failure greatly weakened confidence in existing international organization? Will not this failure impede the movement for the reduction of armaments and international economic cooperation? In short, if we are to bring a successful international organization into existence, must we not make some provision for the use of coercion in support of law?

The Role of Force Today

This question can be answered first by inquiring into the place coercion now holds within the state as well as in international relations. Except for the rapidly disappearing philosophical anarchists and a few religious sects such as the Mennonites and Shakers,[1] all schools of political and ethical thought recognize that within the state force is a necessary corollary of law. The very meaning of the word government implies power to command. Although a state is based on the community of interests of its members, it cannot rest on this principle alone. The state must hold a police power in reserve; otherwise it will dissolve into anarchy.

As the maintenance of large armies and navies shows, force also plays an important rôle in relations among states. Unlike the use of force within the state, however, force in international relations has not been a corollary of international law or of an international organization which composes differences between states, as differences between individuals within a state are composed. Force in international relations has been an instrument of national policy; it has been used by one state to prosecute its national objectives when they came into conflict with those of another state. The result of this system of force was the World War. Force harnessed to law means order; force exercised in the absence of law means anarchy. It is from this latter condition that the world has attempted to emerge during the past decade.

1. Clarence Marsh Case, *Non-Violent Coercion* (New York, Century, 1923), p. 63, 110.

Article 16 of the Covenant

The first attempt to organize the world upon a basis of law and order was made in the League Covenant. The authors of the Covenant did not believe it possible to eliminate conflicts among nations or to base international relationships purely on good faith, any more than they believed it possible to eliminate conflicts between individual interests and settle individual disputes purely on a basis of reason. The authors of the Covenant did believe it possible, however, to establish pacific means for the reconciliation of conflicting national interests. They consequently provided that states should submit their disputes to arbitration or investigation, and in case a state defied this injunction and embarked on illegal war—i.e., became an aggressor—the other members of the League would subject such a state to severance of all financial and economic relations with the outside world. Such is the provision for economic sanctions contained in the famous Article 16.

Under the war system, both parties embarking upon hostilities would claim to be acting in "self-defense," and each would charge the other with being the "aggressor." Under existing international organization, however, any state which refuses to place its dispute before an arbitration court or the League Council should be *ipso facto* presumed to be the aggressor if it resorts to armed force or war. According to this test, there is no doubt that Japan, whatever its grievances against China in the recent dispute, was the "aggressor" state, for Japan would not allow the League of Nations or the World Court to take jurisdiction over its differences with China. Whenever any state insists upon being judge and party to the same cause the world is justified in deeming it to be the aggressor.

The Limited Scope of Article 16

In considering the nature of international sanctions, it is necessary to make a distinction between two types of international obligations. The first type—a negative obligation embodied in the Anti-War Pact and in certain Articles of the League Covenant—consists of an undertaking not to embark on illegal war, not to invade a neighbor's territory. The second is more positive in nature. It is embodied in many treaties and represents an obligation on the part of a state to perform or to refrain from performing within its jurisdiction acts for the benefit of other states, usually in return for the performance or non-performance of similar acts by other states. Such examples may be found in treaties by which states promise to extend commercial privileges to aliens, to protect minorities, or not to fortify certain colonial areas. Obviously it is difficult to coerce a state failing to live up to this second type of obligation. As the French intervention in the Ruhr demonstrated, it would be extremely difficult for an inter-Allied army forcibly to collect reparation in Germany, even if an international tribunal had adjudged Germany to be in default on reparation payments. In such a case, coercion involves an attempt to induce a state to perform within its own territory acts which are repugnant to it.

The opponents of international sanctions usually ignore the fact that the League Covenant makes no provision for sanctions in the case of a state which does not live up to its positive obligations.[2] The function of international sanctions is not to compel Japan to pay its dues to the League of Nations in case of default, or even to prevent Japan from illegally fortifying its Pacific Mandates. In such a case, the difficulties of imposing sanctions are admittedly great; and since failure to live up to this type of obligation does not result in any immediate damage to other states, as

2. It is true that the Council (Art. 13, par. 4) "shall propose what steps should be taken to give effect" to a judicial decision which is not observed, but this article does not have the obligatory effect of Articles 15 or 16.

would be the case in the event of war, the League is content for the present to rely on the intangible force of public opinion. Consequently the analogy of attempting to enforce an unpopular law on a community does not hold. In case Japan invades a neighboring state, however, the League Covenant rests on the belief that the imposition of sanctions is just and practicable. In such a case the injury done is far greater than when a government merely fails to perform a discretionary act within its own terrritory; and it is far easier, from the practical point of view, for a combination of states acting under League authority to prevent a state from invading its neighbor than to compel it, say, to pay a sum of money. All that at present the League sanctions aim to do is to organize the force of a group of states in accordance with the principle of cooperative defense to neutralize the illegal use of force by the aggressor.[3] In other words, sanctions do not create war; they come into existence only after war has broken out; they are for the purpose of repressing war. When international organization becomes more firmly established, it may become necessary to apply sanctions in support of both types of obligations. For the time being at least, sanctions are obligatory only to repress illegal war; the remaining relations among states are allowed to rest upon the basis of "good faith."

Peace More Important than Justice

Realistic students of international affairs will declare, however, that any system of sanctions is unjust which compels State A not to attack State B, without in turn compelling State B to live up to its obligations to State A. They insist that it is unjust for the League to attempt to prevent Japan from invading Manchuria without at the same time obliging China to live up to its treaty obligations, on the fulfillment of which the welfare of the Japanese people may depend. The weakness of this argument in the recent Manchurian controversy is that Japan refused to give the League an opportunity to decide whether China had violated its obligations to Japan. It is essential for the League to support every kind of international obligation and to secure a peaceful revision of the *status quo* when the legitimate interests of certain nations require such a change. Nevertheless if one goes so far as to insist that any effort to abolish war as an instrument of national policy should be postponed until after the machinery for peacefully changing the *status quo* is perfected, one is arguing not against sanctions, but against the very principle on which the League Covenant and the Anti-War Pact are based: namely, that there is no grievance which justifies a state in embarking on war, at least without first submitting this grievance to an international tribunal. Within the state the law protects swollen fortunes at times when thousands are in want; the state may allow these people to seek a peaceful redress of their grievances at the polls, but the state cannot allow the poor to take the law into their own hands. Similarly, no international community can be developed which permits each state to retain the right of war until the injustices in the *status quo* are removed. No one who believes in the Anti-War Pact can oppose sanctions because they would prevent a state from going to war to correct an "injustice." That right is already voided by the Anti-War Pact.

"Moral Pressure" Strengthened by Sanctions

It cannot be denied that in the past governments have, in violation of their promises, invaded neighboring territory. In view of the rapidly broadening scope of treaty obligations, it is probable that similar violations will be frequent in the future unless adequate sanctions against such violations are provided. Just as within the state the police are needed to enforce law, so in international relations, sanctions

3. Cf. W. E. Hocking, *Man and the State* (New Haven, Yale University Press, 1926), p. 59.

are needed to make effective the protest of world opinion against an aggressor. Public opinion may complain against the evils of unemployment, but it achieves results only when it proposes a definite cure. Similarly, in international relations public opinion is likely to prove diffuse and ineffective in stopping war unless it supports some concrete means for this purpose, such as a system of international sanctions. The existence of such a system gives public opinion a concrete focus for its energies.

Moreover, the application of international sanctions to an aggressor would indicate the extent to which the ideal of international cooperation had gripped the world, and would strengthen that ideal in the future. When public opinion, however, applies only "moral suasion" to an aggressor and fails to check the aggression, as in the case of Japan, then the idea of international cooperation and of "moral suasion" is inevitably weakened, while nationalism and the trend toward higher armaments are increased.

Sanctions as a Preventive of Aggression

International sanctions are much more than a repressive measure employed to stop fighting after war has illegally broken out; the mere knowledge that sanctions may be imposed will prove a deterrent to, if not a preventive of aggression. Undoubtedly the Japanese military staff, before starting its Manchurian campaign, had reached the conclusion that no government would interpret its obligations under Article 16 of the Covenant in a literal sense. In this particular instance such a conclusion was accurate. Had the Japanese government, however, been given concrete evidence that sanctions would be applied, there is little doubt that the Mukden incident would have been quickly settled, and the Japanese liberals and industrialists could have held their own against the militarists.[4] It is impossible to believe that had economic sanctions been applied to Japan in the early stage of its dispute with China, the militarist group would have gone to the extreme which ultimately resulted in the shocking assassination of Prime Minister Inukai. Had Germany in 1914 known that England and the United States would enter the World War, it is probable that Germany would have induced Austria to localize the Sarajevo incident, and thus maintained peace. So long as governments refuse to commit themselves in advance, some state may risk war on the assumption that governments removed from the immediate dispute will remain aloof. A system of sanctions in which governments loyally undertake to act against an aggressor would destroy this assumption, and thus serve as an important preventive of hostilities.

As to the general preventive value of international sanctions, a recent study states:

> "General knowledge, in any country considering aggressive action, that world-wide economic sanctions might be invoked against it, would certainly call into action the fears of all business and industrial interests in that country; and their influence, exercised entirely directly and within the country, would in many cases suffice to turn the scale against the contemplated aggression.
>
> "Influences of that sort become more and more powerful as a country becomes more and more completely industrialized; and they would weigh more heavily in the greater industrial States than in the backward nations. And since it is clear that only these great industrial States can seriously contemplate embarking in a war of modern type, the psychologic effects of economic sanctions—when employed merely as threats—are strongest in just the areas where deterrents are most needed."[5]

Thus sanctions are a preventive measure of great importance; they are concrete means by which public opinion may be mobilized against a potential aggressor.

4. The Tokyo correspondent of the *New York Herald Tribune* wrote on March 1 that the "foremost" reason why the Japanese Cabinet decided to make a peace proposal in the case of Shanghai "was the fear that an economic boycott of Japan might result from the meeting of the League of Nations [on March 3]."

5. Committee on Economic Sanctions, *Reports of Research Findings*, 1931, p. 222.

The Dangers of National Sanctions

Although the provisions for international sanctions in the Covenant remain so far a dead letter, the leading powers still support huge military establishments. Under the present veneer of internationalism, stark nationalism still dominates the world—a nationalism represented by glowering armaments. Governments profess an abhorrence at using force to uphold international objectives but they cling to force in pursuance of national objectives, couched under the phrase of "security" and "self-defense." Unless this deadlock is soon broken, it can result only in strengthening the war system.

In the recent crisis in the Orient, we may find a vivid example of the contradictory position in which the world lives today. China vainly called to the League for help in accordance with the principle laid down in Article 16. International aid failing to materialize, China employed its own forces to resist Japan.

Moreover, although the various governments declined to admit China's appeal for international sanctions, the leading powers did invoke national sanctions. Thus the United States, Great Britain, France and Italy dispatched military and naval forces to Shanghai following the Japanese bombardment. The American government, in addition to sending vigorous protests to Japan, concentrated its entire fleet of 202 vessels in the Pacific and even intimated that it would increase the size of its navy unless Japan respected the Nine-Power Treaty. In other words, it supported its "moral protests" by a show of naval force. Under such delicate circumstances, war might easily have occurred.

Unless one believes in complete non-resistance, no one can condemn China for having employed force in "self-defense" against Japan. Even the supporters of the outlawry of war movement accept this right of self-defense.[6] If the doctrine of "self-defense" is sound, the doctrine of cooperative defense is even more sound.[7] If it is logical for one nation to rely on its own army and navy for protection, why is it illogical for nations to rely on the combined forces of the world community? Able to rely for its defense on the principles of "cooperative defense" and "international sanctions," a state can afford to reduce its armaments, while if it is obliged to rely on its own resources, it cannot reduce armaments without fear of being exposed to attack. Disillusioned concerning the guarantees contained in the Covenant and the Anti-War Pact, millions of Chinese, as a result of the recent "war" with Japan, have come to believe that the return of Manchuria can be secured only by force. China has been given every incentive to become a militarized nation. In other words, the inevitable result of the failure to apply international sanctions is to induce a state threatened by a stronger neighbor to expand its own armaments—and thus increase the tension out of which wars arise.

Increasing Tension

The failure of the League and the United States to prevent Japanese aggression in Manchuria also has led Russia to become apprehensive concerning the designs of Japan and to increase its military establishment in Siberia. Japan, for its part, has met unexpected resistance at the hands of Chinese troops; it fears a clash with Russia, and must suppress revolts in the new state of Manchoukuo. Consequently Japan has an added incentive to arm. Finally, the United States, alarmed at Japan's aggression, has threatened to increase it fleet. On May 6 the Senate overwhelmingly voted in

6. C. C. Morrison, *The Outlawry of War* (Chicago, Willett, Clark & Colby, 1927) p. 50, 209.

7. R. L. Buell, "The Next Ten Years of the League," *World Tomorrow*, June 1930; Luigi Sturzo, *The International Community and the Right of War* (New York, R. R. Smith, 1930), p. 243.

favor of building up our navy to the London "treaty" level, at a cost of $786,000,000. If the United States, which is in less danger of attack than any other great power, increases its military establishment following this dispute in the Orient, all other powers will be encouraged to do likewise. Thus the application in the recent Sino-Japanese dispute of the doctrine of "self-defense" and "national sanctions," instead of "co-operative defense" and "international sanctions," has strained relations among a dozen powers and inevitably weakened international peace machinery. Had the doctrine of "cooperative defense" and "international sanctions" been applied, there can be no doubt that China would have been better protected from Japan than it has been by the force of its own arms. There can also be little doubt that the application of economic sanctions would have restricted the extent of Japan's aggressions, if indeed the threat of such sanctions would not have prevented such aggressions. It is even probable that the threat of sanctions would have prevented the military extremists in Japan from seizing power. Had the League and the United States successfully curbed Japanese militarism and secured a peaceful settlement of the difficulties between China and Japan, the international consciousness of the great powers would have been immeasurably strengthened, a fact which would have greatly facilitated the solution of other pressing international problems.

Disarmament Impossible Without Sanctions

The fact that the League members and the United States failed adequately to support the principle that war should not be used as an instrument of national policy has made it extremely difficult to secure any degree of disarmament; on the contrary, it has set in motion forces working in exactly the opposite direction. The American frontiersman did not throw away his rifle until a system of courts and police had been established in which he had confidence. Similarly, nations are unlikely to disarm until a world organization is created which embodies an effective system of cooperative defense. Thus the whole question of disarmament and security is inseparably linked to the question of international sanctions.

To escape from this conclusion, one might insist that states could disarm by agreement, leaving the comparative security of each state unimpaired. For example, if State A and State B each maintained an army of 100,000 men, their relative security would be the same if they agreed to reduce their armies to 50,000 men. Why cannot the powers, therefore, agree to a 50 per cent cut in armaments, without regard to the question of sanctions and the settlement of political differences? The reason is two-fold. First, the powers are unwilling to freeze the *status quo* in comparative armament strengths. The adoption of this relative reduction principle in 1914 would have perpetuated the supremacy of the British navy, which Germany would not accept. The adoption of that principle today would mean the supremacy of the French army in Continental Europe, and the Japanese army in Asia. Some governments insist on freedom of action to overcome present French or Japanese superiority. France and Japan are unwilling, for their part, to reduce their armies in greater proportion than other powers because this implies the renunciation of interests each deems vital. Until the League can guarantee that neither Germany nor China will use force in tearing up treaties—a principle which the Anti-War Pact lays down, neither France nor Japan will renounce its present military power. In other words, a basis for the reduction of armaments and for wiping out present military differences can be found only when an international organization is established which will secure the pacific settlement of disputes and provide security against attack by a system of international sanctions. After the recent events in the Orient, it would be folly to ask either Japan or China to disarm.

In the second place, the powers are unwilling to disarm by agreement because of the difficulty of framing a reduction treaty to cover every phase of armament strength, to prevent evasion and to guarantee that a state will not violate a disarmament agreement. For example, today at the Geneva Disarmament Conference Germany is demanding equality in armaments with France. France declares, however, that even if equality in effectives were admitted, Germany would still maintain a superior "war potential" by virtue of its resources and industrial organization. Germany has the strongest chemical and aviation industries in Europe, and although it is forbidden by treaty to manufacture poison gas and military planes, it is almost impossible to devise any agreement which would prevent Germany, in the event of hostilities, from utilizing such industries for the production of poison gas and military planes which might eventually overwhelm France. Consequently, in the absence of a system of international sanctions, France insists on maintaining a larger army than Germany in order to achieve an initial victory on the outbreak of war, which would prevent Germany from utilizing its war potential. Only the establishment of a system of sanctions offsetting Germany's advantage in war potential would permit France to surrender its present military superiority.[8]

Even though every government in the world entered into a disarmament agreement, the possibility of evading that agreement, especially in view of the multiplicity of means by which wars may now be fought, will remain. Until a system of international sanctions is erected against the possibility of evasion, states now having large military establishments will be loath to trust to paper guarantees. It may be possible to secure a small measure of armament reduction without touching the security question; but it is highly improbable that a real attack on this problem can be made without some provisions for sanctions.

Treaty Revision and Sanctions

Critics will argue that the solution of the difficulties between France and Germany, on the one hand, and China and Japan, on the other, lies not in the development of a system of sanctions but in removing the underlying causes of dispute. They urge France and Japan to surrender interests which are responsible for the maintenance of large military establishments. In other words, France should allow Germany to take the Corridor from Poland, and Italy to absorb territory in the Balkans. Japan, on the other hand, should renounce all its rights in Manchuria. Any such reasoning assumes that the claims of Germany, Italy and China are "defensible," while the claims of France and Japan are "indefensible." When one examines the substance of these disputes, he will find that the right is by no means all on one side. According to nationalist standards, Poland can make as strong a case for the Corridor as Germany; while if Japan should surrender its economic interests in Manchuria, it is probable that many Japanese would starve. Admittedly every effort toward compromising national interests should be made. But in view of the complicated nature of these disputes and the conflict of interests which are virtually insoluble under existing nationalist tenseness, there is no possibility, within the next few years at least, that a solution satisfactory to every party will be found.

As long as the fear remains that a government harbors the desire to impose a solution by force, a feeling of insecurity will persist, perpetuating large armaments together with an atmosphere which makes the peaceful settlement of these problems well-nigh impossible. For example, as long as France feels that Germany intends to recover the Polish Corridor by force of arms, it will refuse to consider the merits

8. It may be pointed out that France should be satisfied with the Locarno security agreement, but this agreement does not apply to the frontiers of Eastern Europe, and it is largely a dead letter so long as the attitude of the United States toward an embargo against an aggressor remains unknown.

of the Corridor question, while neither France, Germany nor Poland will consider internationalization or any other forms of compromise as a solution. If the leading parties to the Anti-War Pact, however, should undertake to support a system of sanctions effectively preventing the outbreak of war from any cause whatsoever, France and other interested states might be induced to disarm, and at the same time to consider the revision of "unjust" treaties in accordance with Article 19 of the Covenant. In fact, it is only through the establishment of a security system that it will be possible for the forces of reasoned opinion, by which Professor Dewey sets such store, to operate effectively. The removal of the causes of war is of course fundamental; but in the case of two states whose difficulties are of long standing, it is doubtful whether this end can be achieved without an international organization which will guarantee that these states will keep their word.

Federations and Sanctions

To reinforce what has been said as to the necessity for coercion against a state which defies the world community, we shall point to the history of a number of lesser groupings of states. There seems to be no instance in the history of the world, from the city states of Greece, through the Papacy, the Holy Roman Empire, and the city states of Italy to the federations of modern times, where an effective political grouping of independent states has been held together purely on a basis of "good faith," "the force of public opinion," and "community of interests." The separatist instinct which leads a group to subordinate an ultimate good to immediate interests is the strongest of all political instincts. Consequently, in an effort to control separatism, nearly every federal state in existence today makes provision for sanctions. The Swiss constitution provides that in case of "trouble" between the cantons, the federal government may, at the request of one of the parties, call out troops and summon the other cantons to assist in the maintenance of order.[9]

In the case of the German federation, the power to coerce a state is even more precise. Article 48 of the Weimar constitution declares:

> "If a state fails to carry out the duties imposed upon it by the national constitution or national laws, the President of the Reich may compel performance with the aid of armed force."

Finally, the history of the United States, beginning with the Revolution of the thirteen colonies and the Civil War of 1861, demonstrates that reason and good faith are not enough to bring into existence and maintain a federal union. Since the Revolution and the Civil War were extra-legal in character, they will not be regarded as examples of a legal coercive power. Nevertheless, in 1777 the thirteen independent states came together in the Articles of Confederation which established what amounted to a League of Nations. These articles made provision for compulsory arbitration of all disputes among the thirteen states, and for cooperative defense.[10] The reasons why the Articles of Confederation did not establish a permanent form of government are well-known. Localism was too strong to enable the states to cooperate on a basis of independence for a common purpose. Consequently the Constitution of 1787 established a federal government in which the states definitely surrendered many of their former powers to a government at Washington. This government was given authority to coerce individuals, including state officials, to prevent the violation of federal law. In addition, the Supreme Court definitely decided in 1918 that the

9. Article 16, Constitution of 1874. Dareste, *Les Constitutions Modernes*, II, p. 546.

10. For an interesting comparison between the Articles of Confederation and the present League, cf. Oscar Newfang, *The United States of the World* (New York, Putnam, 1930); also Charles Warren, *The Supreme Court and Sovereign States* (Princeton, 1924), Chapter I.

federal government had the power to compel one state to pay its debts to another state.[11]

While the American Union rests on "good faith," it also relies on the power of coercion, whether of individuals or states. The history of the United States has been an evolution from a loose form of association, embodied in the Articles of Confederation, to the establishment of a superstate having definite powers of coercion. Had the authors of the American Constitution adopted the argument of "good faith" as an adequate basis for association, there can be no question that the thirteen states would have recovered their independence and soon become engaged in a series of wars.

The League of Nations today is for the world what the Articles of Confederation were for the thirteen American states. The same defects may be found in the League which were present in the Articles. In view of the present strength of the nation-state, and the traditional hostility which exists among nations, it is difficult to believe that the League is moving at the moment toward a closer international unity. Nevertheless the door to such a development, however remote, should not be closed. There is grave danger, however, that just as the "no-sanctions" doctrine, had it been accepted by the authors of the American Constitution in 1787, would have led to the disruption of the American continent, so the acceptance of the "no-sanctions" doctrine today will prevent the growth of a world community and therefore strengthen nationalism and armaments.

Summary:

Thus we are led to the following conclusions:

1. Just as force is a necessary corollary to law in domestic society, so force must become a necessary part of any international machinery for the prevention of war, if this machinery is to achieve its end.

2. It is necessary to choose between national sanctions employed to support national objectives, and international sanctions employed to support international objectives.

3. The continuance of the present system of national sanctions means the perpetuation of large armament and a feeling of insecurity.

4. It is possible to attain real security, the reduction of armaments, and an objective attitude toward treaty revision and other political problems only with the establishment of an international organization, in which international sanctions play a fundamental part. If the governments fail to establish a system of international sanctions—if, as Professor Dewey argues, such a system is "impracticable"—then the world is doomed to a continuance of the war system.

5. A system of international sanctions is especially important as a preventive of illegal war.

6. All successful federations of states, including the United States, provide for coercion against a state or individual violating the federal law.

PART II

THE INADEQUACY OF "MORAL PRESSURE" AND "NON-RECOGNITION"

Although opponents of sanctions declare that "good faith" is an adequate guarantee of peace, many of them contradict themselves by declaring that "moral pressure"—as contrasted with economic sanctions—should be employed to restrain states threat-

11. *Virginia v. West Virginia*, 246 U. S. 565. As we have seen, this type of coercive power is not vested in the League of Nations, which has power to repress aggression only. By virtue of its guarantee to each state of a republican form of government—a guarantee which in certain respects resembles Article X of the League Covenant—there can be little doubt that the Federal Government of the United States could use force to overthrow the establishment in any state of a Communist or Fascist form of government.

ening to go to war. They support the recent strictures of the League Council and the United States against Japan, but would abstain from reinforcing such strictures by concerted economic measures. While "moral pressure" is undoubtedly of great importance, it nevertheless constitutes an effort on the part of the outside world to induce a state to do something against its original wishes, and hence is in itself a "sanction." Since moral pressure is a type of sanction, the real question is whether it is adequate to achieve its ends. The recent failure to check Japanese aggression in China by "moral pressure" would indicate that by itself this sanction is inadequate. Supporters of the "moral pressure" school nevertheless insist that the various governments did not fully apply this pressure during the recent crisis, and that once the League of Nations is reorganized, and the general world situation improves, "moral pressure" will prove adequate to meet every emergency. During the recent Sino-Japanese controversy, the League members did not even declare Japan formally guilty of having violated its obligations partly because they would have been obliged to impose an economic boycott against Japan under Article 16 of the Covenant. As they were unwilling to apply this economic pressure, they refrained from exercising moral pressure.

Possibly the failure of the League Council to act may be attributed to the existence of Article 16. A more valid explanation, however, is that the great powers represented on the Council were conscious of the fact that in the past they had engaged in interventions similar to that undertaken by Japan and might wish to engage in similar interventions in the future. It seems obvious, moreover, that if the great powers should pronounce drastic judgment against an aggressor, having first made it clear that they would not support such a judgment by sanctions, the aggressor state would pay no more heed to such an injunction than Japan has recently paid to the world's representations concerning its action in Manchuria.

Representatives of the "moral pressure" school assert, nevertheless, that our judgments are too hasty and that despite failure to check Japanese aggression, Japan will ultimately suffer from its present venture, and China will ultimately triumph. This romantic theory that good always conquers evil finds little support from history. Such a theory could be used to justify the World War and, if sound, would make all peace machinery unnecessary. What this theory overlooks, among other things, is the tremendous amount of suffering and irremediable damage caused by the process of war. Ultimately China may succeed in reestablishing its control over Manchuria, which is now in the hands of Japan. But if this end is secured only by keeping the Orient in a state of recurrent war and economic disorder during the next century, and if it involves the militarization of the Chinese and Japanese people, then the cause of world peace and human cooperation will have been inevitably defeated, even should Manchuria be restored eventually to China.

Those who believe in moral pressure explain the recent failure to stop Japan on the ground that the moral forces of the world have not been active because of the grave internal problems caused by the depression and the persistence of international disputes originating in the World War. Once prosperity returns and a better feeling is restored among the great powers, then "moral pressure" will be more effective. The difficulty with this reasoning is that it conditions success on the establishment of a millenium which never arrives. The world will always be confronted with problems; what is important is that more enlightened methods for settling these problems should be adopted. When a great power like Japan is allowed to take the law in its own hands, the doctrine of nationalism is strengthened in every country, and the capacity for exerting "moral pressure" in the future in support of international standards is inevitably weakened.

The Inadequacy of the Non-Recognition Doctrine

Reluctant to admit that the outside world failed in stopping Japan's aggressions, a number of spokesmen, official and private, assert that the "non-recognition" doctrine laid down by the United States and the League will eventually bring about the return of Manchuria to China, and will serve as a guarantee—more effective and less dangerous than the guarantee of economic sanctions—against future aggressions in any part of the world. According to this doctrine, no government should recognize any "situation" arising out of violation of the Anti-War Pact and the League Covenant. In the present instance, this doctrine aims at preventing the "recognition" of the new state of Manchuria which has come into existence as a result of Japanese military operations.

If the principle which the non-recognition doctrine embodies can be enforced—i.e., that no treaty made under duress is valid—it will mark an important change in intertional law. The application of this principle to Manchuria, moreover, may serve as a legal basis for the future intervention of League members and the United States. Nevertheless, to claim that this doctrine is a substitute for economic sanctions and constitutes a guarantee that will make it possible for nations to disarm is utopian, to say the least. This doctrine can not be made effective unless it is supported by measures involving something more than words.

The limitations of the non-recognition doctrine, unsupported by other acts, may be demonstrated by a few historical examples. By withholding "recognition" from Russia, the United States has hoped to induce the Soviet régime to pay the Kerensky debts. By withholding recognition from revolutionary governments, we have hoped to encourage stability in Central America. Nevertheless, despite the non-recognition policy, the Soviet debt remains unpaid, while revolutions in Central America are as numerous as ever.[12]

In 1883 the British government established control over Egypt in supposed violation of certain rights claimed by France. France declined to "recognize" the British position in Egypt until the conclusion of the Entente Cordiale of 1904. This belated recognition improved the British position, because the control which France had previously exercised over Egyptian finance was then relaxed. France's refusal to recognize British control between 1883 and 1904, however, did not prevent Great Britain from achieving its political objective.

An even closer analogy to the situation in Manchuria is the establishment of the Republic of Panama in November 1903. This republic could not have been established except for the armed intervention of the United States. The government of Colombia, on whose territory the new state was so summarily erected, was bitterly antagonized by the intervention of the United States and did not "recognize" the existence of Panama until 1921. Its refusal to do so, however, did not constitute the slightest obstacle to the construction of the Panama Canal by the United States.[13]

Now France in Egypt and Colombia in Panama had far greater material rights than has the United States in Manchuria. Despite these rights, the "non-recognition" doctrine failed to obstruct the ends of imperialist powers determined to realize their objectives. It is difficult to see how the adherence of the entire world to the "non-

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12. R. L. Buell, "The United States and Central American Revolutions," *Foreign Policy Reports*, Vol. VII, No. 10, July 22, 1931.

13. Mr. Frank H. Simonds reminds us that Prime Minister Asquith warned the Balkan states in 1912 that territorial gains following the pending war with Turkey would not be recognized; nevertheless the great powers acquiesced in the Treaty of Bucharest, which distributed Turkish territory among the victors of the war. *New York Herald Tribune*, May 10, 1932.

recognition" doctrine would of itself have affected the aims of the British in Egypt or of the United States in Panama. The final result of the two incidents was that France and Colombia recognized the newly established positions of Great Britain and the United States, in return for a consideration. Is not Japan likely to win a similar victory unless the powers are prepared to go further than a mere refusal to recognize?

Should governments take this non-recognition doctrine literally, they might seriously embarrass Japan's position in Manchuria. Mr. Stimson could urge American citizens in Manchuria not to pay taxes to the new régime, and to disregard its courts. He could instruct American consular officers not to accept exequaturs from the new Manchurian government. The result of such a course would be the immediate exclusion of American commercial interests from the country and the erection of the Closed Door against the United States. "You may come and trade on a basis of equality with other nations," the Manchurian authorities would say, "but only on condition that your government accepts our jurisdiction and that you conclude with us a commercial treaty."

If seriously determined to secure its objective, the United States could next decide to embargo American loans to Manchuria. Assuming that capital is needed, the embargo might constitute a brake on Japanese development. The Soviet Union, however, has been able to carry out an imposing Five-Year Plan without the aid of long-term financial assistance from the United States. Japan could probably develop Manchuria without such aid. Should the United States and the League members boycott loans to Manchuria, Japan could increase its borrowings from abroad, thus releasing internal funds for use in Manchuria. Finally, the United States and the League members could boycott trade with Manchuria; but the consequences of this action would be to throw the new state completely into the arms of Japan, in which case Japanese ports would become the ports of entry for Manchuria. Thus there is no method of applying the "non-recognition" doctrine literally to Manchuria except by declaring an economic and financial embargo against Japan itself. If economic sanctions are to be applied, surely they should be applied to restrain a government from causing the enormous suffering of armed intervention.

Subject to certain conditions, the incorporation into international law of the principle that an agreement made under duress is invalid would constitute an important advance. Under private law, however, this principle protects the victim of duress because the party employing duress cannot enforce the rights claimed under the contract without the support of the state. Under international law, however, an aggressor state which annexes territory as a result of a war can enjoy the benefits of *de facto* annexation, regardless of whether such annexation is "recognized" by other powers. Consequently the new doctrine of non-recognition will become important only when states agree to prevent the aggressor from enjoying the results of duress—i.e., when they are willing to apply concrete sanctions. To do nothing more than refuse to "recognize" a settlement established by war will merely encourage the defeated state to attempt the reconquest of its lost territory. The attitude of the United States and the League in the recent Sino-Japanese case is thus causing China to gird itself for a new war. Even if this war should not come in the immediate future, the fear of a new outbreak will hang over the Orient, intensifying the present unrest.[14] If governments intend to prevent war certainly the invocation of the "non-recognition" doctrine—and nothing else—is the wrong way to go about it.

Recognizing the difficulties of any effort permanently to apply the non-recognition doctrine, some of its supporters state that if non-recognition does not succeed in dis-

14. Cf. R. L. Buell, *New York Herald Tribune*, March 27, 1932.

lodging an aggressor from forcibly acquired territory, an international conference should be called to determine an ultimate settlement. Such a procedure could only mean that unilateral violation of the Anti-War Pact could be legalized by multilateral consent. On its face, this appears to be a questionable solution. If it is wrong for an aggressor to annex the territory of a neighboring state by force, how is this act made any less wrong by virtue of the belated consent of the "neutral" powers, which had previously promised not to recognize any situation created in violation of the Anti-War Pact? Such a solution would encourage the aggressor to cling to his spoils in the knowledge that the other powers would ultimately give way. Thus it is evident that by itself alone the non-recognition doctrine is a faulty method of preserving the territorial integrity of a state against an aggressor or of maintaining peace, and that it cannot serve as a basis for disarmament. International sanctions must be more realistic and decisive in nature.

Progressive Sanctions

A number of critics declare that Article 16 of the Covenant, in providing for a complete embargo against the trade of an aggressor, is so sweeping that no government is willing to apply it. They contend that the article should be changed to give the League greater discretion. In their opinion, sanctions should be employed only against certain "key" articles of vital importance to the aggressor state, leaving the remainder of its trade unimpaired. For example, the recent proposal of the Committee on Economic Sanctions of the Twentieth Century Fund advocates a protocol in which the signatory states would pledge themselves in the event of threatened violation of the Anti-War Pact "to consult together to determine upon measures of non-intercourse appropriate to keep the peace," and the Capper resolution of April 4, 1932 merely enjoins financial assistance to an aggressor as well as the shipment of arms "or other supplies of war."[15] The criticism that Article 16 is too rigid may be sound. There may be room for difference as to what particular type of sanction would best meet a given situation and at what stage in a conflict sanctions should be applied. Once it is admitted, however, that some kind of coercion is desirable, it follows that the principle of sanctions is sound.

PART III

THE OBJECTIONS TO SANCTIONS

Despite these arguments, which indicate that unless international organization provides for sanctions the war system is likely to be perpetuated, a number of objections are raised. Opponents of sanctions do not advance any conclusive arguments that the war system can be overthrown merely by "good will," but concentrate their efforts on demonstrating that sanctions "will not work."

Their arguments may be summarized under the following headings:

1. Sanctions are a part of the European militarist system.
2. Sanctions unjustly injure "innocent" people.
3. Sanctions mean war.
4. Sanctions are impracticable.

15. Cf. an interesting address by John Foster Dulles, *Annals of the American Academy*, July, 1932. On October 4, 1921 the League Assembly adopted a resolution authorizing progressive sanctions under certain circumstances, and stating: "In cases of prolonged application of economic pressure, measures of increasing stringency may be taken. The cutting off of the food supplies of the civil population of the defaulting State shall be regarded as an extremely drastic measure which shall only be applied if the other measures available are clearly inadequate." Resolutions and Recommendations adopted by the Assembly, Second Session, p. 26.

1. Are Sanctions a European Idea?

The idea that international sanctions are "un-American" was advanced by President Hoover in his Armistice Day speech of 1929, when he declared:

> "The European nations have, by the Covenant of the League of Nations, agreed that if nations fail to settle their differences peaceably then force should be applied by other nations to compel them to be reasonable. We have refused to travel this road. We are confident that at least in the Western Hemisphere public opinion will suffice to check violence. This is the road we propose to travel."[16]

The implication of this contrast is that the principle of sanctions is part of the old European system of militarism and balance of power, to which the United States has been traditionally opposed.

There is little historical basis, however, for this supposed contrast. In 1910 the American Congress passed a resolution in favor of "constituting the combined navies of the world, an international force for the preservation of universal peace." At one time, Presidents Roosevelt and Taft, and Senator Henry Cabot Lodge supported the idea of sanctions in support of international law,[17] as did the League to enforce Peace during the World War. At the Paris Peace Conference, the American drafts of a League of Nations likewise made provision for sanctions.[18] Moreover, although professing that the force of public opinion has been sufficient to settle disputes in the Western Hemisphere, the United States has rigorously applied the principle of national sanctions in the Caribbean where it has repeatedly used marines to accomplish its ends. In fact, under the Roosevelt Corollary to the Monroe Doctrine, the United States arrogated to itself the task of acting as policeman for the outside world in this region. It is true that opposition was expressed to the sanction clauses of the League of Nations in the Senate; this opposition, however, did not proceed from the belief that the use of force is morally wrong, but from an unwillingness to pledge the use of force in advance.[19]

All extreme nationalists, whether in America or Europe, oppose the idea of international sanctions. This opposition arises out of an unwillingness to subordinate national military establishments to international control. The desire for "freedom of action" is due, not to a general pacifism, but to a latent fear that international organization will interfere with incompatible national interests. During the recent Sino-Japanese dispute, avowed nationalists as well as spokesmen of governments which have verbally accepted the doctrines of internationalism, have been quick to seize on the no-sanctions argument of one school of peace advocates to justify an unwillingness to make any sacrifice on behalf of the Anti-War Pact and international organization. In thus playing into the hands of the extreme nationalists, the no-sanctions pacifists give another example of the proverb that the best is enemy of the good.

2. Sanctions and "Innocent" People

Opponents of international sanctions deny that there is any analogy between the use of police within a state and the attempt to coerce a state. The police single out a presumably guilty individual, and operate with overpowering force against him without disturbing the general life of the community. The imposition of interna-

16. Cf. also President Hoover's D. A. R. address of April 14, 1930.

17. Cf. R. L. Buell, *International Relations* (New York, Holt, 1929, revised edition), p. 594.

18. Cf. the House and Wilson drafts, D. H. Miller, *The Drafting of the Covenant* (New York, Putnam, 1928), Vol. II, p. 9, 14, 79, 101.

19. Professor Dewey states that the idea of international sanctions has been dropped in Europe, and is kept alive only by Americans. The recent French proposal for an international police force, the discussions at the London Naval Conference over a consultative pact, and the present deadlock of the Geneva arms conference partly over the sanctions question shows that in Europe sanctions are much alive.

tional sanctions against a state, however, would mean the coercion of all individuals within the state, few of whom had a consciousness of guilt, and some of whom might even be opposed to the policy of their government which the outside world was attempting to change. The punishment of crime committed by an individual may be "just," but the coercion of millions of "innocent" people is unjust.

This distinction between a municipal police force singling out only the guilty individual and international sanctions coercing "innocent" people is not so great as opponents of sanctions assert. The state does not hesitate to use force against groups, some of the members of which defy its authority. Moreover an offense committed by or punishment imposed on an individual inevitably affects "innocent" members of his family as well as the community as a whole. Society cannot be deterred from imposing punishment upon a guilty individual by the consideration that such punishment may indirectly cause suffering to others.

"Innocent" People in the Aggressor State

Even admitting this contention, some critics find it difficult to agree that a people should be held responsible for the acts of its government, especially when that government is undemocratic as in the case of Japan. The seizure of German private property in foreign countries under the Treaty of Versailles, on account of reparation for which the German government was liable, met with severe criticism. Would it not be even more unjust to boycott a people when its government, over which it might have little direct control, embarked on illegal war? Here again it is necessary to draw some distinctions. The attempt to *punish* individuals because of the acts of their government may be reprehensible; but it does not follow that international organization should not exert whatever pressure is necessary upon individuals in order to *repress* the acts of their government. It is literally impossible to separate a government from the individuals under its jurisdiction; it is from these individuals that a government secures its revenues and its man-power. Even if it were possible to make this distinction, the adoption of the principle that a people should be immunized from the consequences of administrative acts would make governments completely irresponsible.

A people can always find means of inducing its government, no matter what the form of constitution, to desist from aggressive war as soon as it is convinced that the war is inexpedient and costly. In other words, the people of a country can escape from the hardships of an international boycott by causing its government to live up to its international obligations. The fact that the attempt to blockade Germany or Russia during the World War led to injustice offers no analogy, since these blockades were part of the old war system. Under a pacific international embargo, imposed after a state has been formally adjudged guilty of having embarked on illegal war, it would be the duty of the international organization imposing the embargo to do everything in its power to convince the people of an aggressor state that the object of the embargo was not to effect the conquest of that state, but to cause it to desist from invading another country. As one of the means to achieve this end, the blockade might even exempt food ships, in accordance with President Hoover's Armistice Day speech of 1929. Such an exemption would remove the fear of starving people but could still make possible the starvation of the industrial and financial organization of an aggressor state.

"Innocent" People in an Invaded State

In considering whether an international embargo would injure "innocent" people in an aggressor state, it should not be forgotten that the invasion of foreign territory by an aggressor imposes vast suffering upon "innocent" people in that territory.

When such aggression leads to a military struggle between two fairly equal powers, the injury done to "innocent" people is likely to be far greater than that done to the aggressor state by an international boycott quickly bringing the aggressor state to terms.

One possibly might contend that while the outside world is not responsible for the injury done, for example, to "innocent" Chinese by the Japanese military machine, it would be responsible for the injury done by an international boycott to "innocent" Japanese. This argument, however, overlooks the fact that if it were not for the continuance of Japan's international trade, Japanese aggression which does damage to innocent Chinese could not be successfully carried on. To oppose economic sanctions means a policy of "business as usual" with an aggressor state. A policy of "business as usual" results in underwriting aggression and making a mockery of international engagements not to go to war. The idea of neutrality and the right of belligerent trade is incompatible with the principle of the Anti-War Pact.

"Innocent" People in the Boycotting States

Finally, it is declared that the principle of international sanctions is unjust because the burden will unjustly fall upon a few exporting or importing groups within the states imposing the embargo and more heavily on some states than others. Obviously the people of a state imposing sanctions may suffer as much as the people of the state against which sanctions are imposed. To equalize this burden, it should not prove impossible to work out a plan whereby an international economic committee may temporarily purchase the exports which normally go to the aggressor, and find substitutes or new sources of supply to take the place of the embargoed imports from the aggressor state.[20] The League of Nations might develop the idea embodied in the Convention for Financial Assistance in case of Aggression, i.e., of creating an international fund which during the application of sanctions could be used to support industries adversely affected in the boycott-imposing countries.

Moreover, it is probable that when an effective system of international sanctions is established, it would not provide in the first instance at least for an absolute embargo upon all articles of import and export, but only upon those articles which are regarded as absolutely essential to the industrial existence of the aggressor state. The application of limited sanctions would reduce the injury to industrial interests in the sanctions-applying states and thus facilitate the success of any plan for compensating such interests.

We may conclude that the war system will do far more damage to "innocent" people and economic interests in every country than would result from the establishment of an international system of sanctions, which would tend to prevent war from coming into existence, or quickly repress such wars in case they actually occurred.

3. Do International Sanctions Mean War?

It is contended in the third place that the imposition of international sanctions would lead to war and the revival of the nationalist emotionalism which characterized the World War. If sanctions are only another name for war and lead to all the abuses of the war system, they should of course be condemned.

The answer to this argument depends first on whether the use of international economic sanctions will lead to armed clashes between the aggressor and the sanctions-applying states, and second, on whether such clashes, if they should occur, may properly be characterized as "war."

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20. A similar system was actually followed under the Allied blockade during the World War. Cf. Louis Guichard, *The Naval Blockade* (New York, Appleton, 1930); M. Parmelee, *Blockade and Sea Power* (New York, Crowell, 1924).

The fear that an international boycott would lead to armed clashes is based on the assumption that to make such a boycott effective it would be necessary to establish a naval blockade of the ports of an aggressor and erect a military cordon around its territory, which might invite reprisals. Actually, however, all that should be necessary, in the beginning at least, is action by foreign governments merely prohibiting the entrance of goods from the aggressor state into their respective territories and preventing the clearance of exports to the aggressor state. A boycott is an effective method of bringing people to recognize their international obligations without necessarily resulting in loss of life. An economic boycott applied by the world community against an aggressor does not mean "war" any more than a strike of labor against capital necessarily means the shedding of blood.

It is theoretically possible that an aggressor state would resist an international embargo by force of arms—by declaring war against the entire world participating in the embargo. This contingency, however, would be extremely remote in case a boycott were really international—and only in such a case should a boycott be imposed.

Nevertheless let us admit the possibility that international economic sanctions might lead to armed clashes. Should they consequently be opposed on the ground that they might lead to "war"? Again it is important to make a distinction. There is a fundamental difference between military force used by a state for the prosecution of national objectives—which is what happens when war occurs—and the use of force by states under international organization after all efforts at peaceful settlement have failed and a state has formally been adjudged guilty of having violated its obligations and embarked on illegal war. Ethically and legally the use of force by a state to advance interests to which a legal claim has not been established is in an entirely different category from the use of coercion by the world community to protect one of its members from aggression. Even if the imposition of economic sanctions should result in armed clashes, which is unlikely, such clashes could not properly be called "war." Should such clashes occur, the aggressor would be quickly brought to terms, provided governments really believed that a war anywhere is of profound international concern. The danger that international sanctions will lead to "armed clashes" is not nearly so great as the danger that illegal war, left to run its course, may spread throughout the world. Any community which holds back from applying its law to a criminal from fear of retaliation is in a morally backward condition. No international organization can hope to come into existence if states decline to act in upholding international standards from fear of conceivable resistance on the part of a state embarking on aggression. Taken literally, such timidity would prohibit even a moral protest against aggression.

A War Psychology Necessary?

Will it nevertheless be possible to obtain popular consent to the application of sanctions against an aggressor state without stimulating a psychology which, instead of developing a genuine international consciousness, will revive the worst excesses of nationalism? If statesmen apply sanctions because of a real desire to uphold the principles of international cooperation and not because of some hidden nationalist motive, there is no reason why they should appeal to jingoism to obtain their ends. Once an effective system of sanctions is organized, Parliaments will probably enact legislation authorizing the Executive to embargo certain articles of trade with any state which illegally goes to war. Under such legislation the Executives of the boycotting countries, after consulting with each other through an international economic committee or other international organ, could impose an embargo without any more danger of stirring up animosity against the aggressor state than is stirred up today when the Executive of the United States imposes an arms embargo on Mexico

or China. The fundamental issue is whether the people in the leading countries of the world can be induced to accept temporary material sacrifice for the sake of an ultimate international good. If people can act only out of consideration of immediate economic interests or blind nationalism, not only is there no hope of successfully applying international sanctions—there is no hope of developing a world community.

4. Are Sanctions Practicable?

Finally, it is contended—and this is the gist of Professor Dewey's argument—that any effort at establishing a system of international sanctions is impracticable. Because of the economic sacrifice involved and the inability of leading governments to unite on a common policy, any system of international sanctions is bound to become a dead letter. It is even asserted, somewhat inconsistently, that out of fear of the imposition of such sanctions, governments will aim at complete economic independence from the outside world.[21] No system of international sanctions, moreover, could expect to be effective against the resistance of great powers.

For those who have historical perspective, the question of whether in the present stage of world politics sanctions will "work" is immaterial to the fundamental question of whether the principle of sanctions is sound. Having reached the conclusion that an international community cannot be erected and the institution of war uprooted without guarantees other than "good faith," and being convinced that the establishment of an international community is essential to human welfare, we cannot be side-tracked from our goal by the objections of the "practical" man. It is true that during the past few years governments have been unwilling to apply international sanctions and that Article 16 of the Covenant has become largely a dead letter. This has been due partly to the unwillingness of the United States to renounce its right to trade with an aggressor, and partly to the fact that the obligations of Article 16 are couched in too sweeping terms. Fundamentally, however, this opposition to international sanctions is due to the persistance of unreasoning nationalism. During this period the same governments which oppose international sanctions have been unwilling to reduce tariffs and armaments, or to modify any other policy causing international friction. Governments do not hesitate to impose sacrifices upon their subjects to advance national objectives. If they are unwilling to impose any immediate sacrifices for the sake of developing an international community, then not only sanctions but any kind of real international organization is "impracticable." The consequences of the failure to establish an effective world organization, in which sanctions will play a fundamental part, means the perpetuation of the war system. The evils of the war system are far greater than any evils which opponents now conjure up against an international sanctions system. Those who believe in the development of a world community cannot accept *a priori* arguments that international sanctions "are bound to fail." They must be willing to take a risk on behalf of world peace; they must resist any of the assumptions of the no-sanctions school until experience forcibly demonstrates that sanctions are unsound.

Much the same answer may be made to the statement that sanctions will not succeed in the case of the great powers, and that such powers, to escape the danger of sanctions, will adopt a policy of complete economic independence. As we have pointed out, the great powers are highly industrialized and hence more sensitive to the preventive pressure of international sanctions than small, agricultural countries. In view of the modern interdependence of the world, an economic boycott is bound to have some effect on an aggressor state, and since such a boycott would be imposed

21. Cf. George Soule, "The Fallacy of a Boycott," *Harpers*, May 1932.

only after moral pressure had been attempted, a boycott would have more effect than moral pressure.

If any government should build up tariff walls to escape the effects of international sanctions, it would have to confess that it contemplated aggressive war. If governments harbor such ambitions, not only will sanctions fail, but so will any form of international organization.

If governments, however, believe that the interests of every nation in the long run can best be advanced by international cooperation, then they will enter into agreements reducing tariffs and armaments, while at the same time developing an effective system of sanctions. The further this development toward economic interdependence and disarmament goes and the more closely national interests become intertwined, the less occasion will arise for the actual imposition of sanctions. If the occasion does arise under these circumstances, it is more than probable that the application of sanctions will be decisive.

Quis Custodiet Ipsos Custodes?

The final argument against the "practicability" of international sanctions is semi-legalistic in nature. It is contended that such a system adds nothing to the security of a state because the promise to coerce an aggressor is of no greater value than the promise not to go to war. If a nation fails to live up to its obligation not to go to war, there is no reason to believe that it will keep a promise to coerce an aggressor. Both promises rest on good faith. In fact, since the promise to coerce an aggressor assumes that the promise not to go to war will be violated, the existence of the first promise weakens the moral value of the second. This argument against international sanctions is summed up in the Latin maxim, *quis custodiet ipsos custodes* (who shall guard the guardians).

In support of this objection it is pointed out that while a state may enforce its laws against individuals and groups, it cannot be compelled to enforce self-imposed constitutional restrictions. If a government chooses to disregard such restrictions, there is no power in the state which can legally prevent or punish such violation.[22] It is contended that the same principle applies in the realm of law among states. If they show bad faith in violating international law, there is no higher power which can impose a legal sanction. Consequently international law should rest only on "a broad-based public opinion."[23]

The enforcement of all international obligations in the final analysis depends on the good faith of governments, on public opinion, and on a community of interests. One must be precise, however, in stipulating what is meant by public opinion and whose good faith is involved. Even more than individuals, governments are apt to act in defiance of reason. A state may believe it profitable to steal from a neighbor, when its real interest is to leave the neighbor alone.

Moreover, at the very time when the government of a single country, perhaps contrary to the wishes of important opinion within its own state, is determined to carry on war, the predominant sentiment throughout a large part of the world may be in favor of peace. This predominant sentiment can make its influence felt by demanding the imposition of sanctions. If governments are reasonably democratic, they will impose sanctions; but if public opinion is only lukewarm in its desire for peace, it is improbable that governments will take such action. Thus there is no necessary legal defect in the present structure of international organization which will prevent

22. Cf. Sir T. E. Holland, *Elements of Jurisprudence* (New York, Oxford University Press, 1910, 11th ed.), p. 365.

23. R. M. MacIver, *The Modern State* (New York, Oxford University Press, 1926), p. 289.

a group of states from acting together to coerce a single state to refrain from embarking on aggressive war. In the last analysis public opinion in the leading countries, working through an effective system of sanctions, will constitute the "guard over the guardians."

The one justification for refusing to apply sanctions to the state is that it has a higher morality than other groups—a view which facts do not support. Many students of nationalism and psychology assert that people acting in national groups will commit acts the very thought of which they would repudiate as individuals. From this point of view, there is even greater need to erect substantial barriers to the misuse of force on the part of the nation-state than on the part of individuals. To contend, as opponents of sanctions do, that the state should be exempt from the responsibility which it imposes on groups within its jurisdiction is merely to increase the excesses of nationalism.

CONCLUSION

To be logical, the no-sanctions school should support complete non-resistance—a doctrine which cannot possibly be made the basis of any kind of society. Far from supporting non-resistance, however, the no-sanctions school accepts the principle of self-defense which inevitably means the perpetuation of armaments and the war system. This system, we have demonstrated, will only disappear when a new system of cooperative defense and international sanctions, acting in support of international law, has been established. In asserting that sanctions will not "work," the no-sanctions school is really saying that no kind of international organization involving the sacrifice of national objectives will "work." My whole contention has been that both international organization and sanctions will "work," if people deeply and intelligently desire peace rather than war. It is well to preach the importance of "good faith"; it is well to insist "upon removing underlying causes of dispute" in international relations, just as it is important to preach the Golden Rule. But these doctrines mean little to society until institutions are established which will carry them into effect. Even among men of the highest personal character vital differences will sometimes arise which can be settled only by intervention of the state. Similarly, differences between states cannot be left to "reason" and "good faith" alone; when one state attempts to solve these differences by force, it is imperative that its aggression should be forcibly resisted by international organization.

Every effort should be made to develop "peace" sentiment throughout the world—to perfect machinery for settling disputes on the one hand, and for peacefully removing injustices in the *status quo* on the other. The success of these developments will depend, however, upon whether the principle of international sanctions is at the same time maintained and developed. It is entirely logical for those who believe in an unrestricted state sovereignty, with its corollaries of nationalism, militarism and imperialism, to oppose international sanctions; but for that very reason, this principle should be supported by those who believe in international cooperation and peace.

The unwillingness of the United States to inform the world whether it will insist upon trading with an aggressor state is one obstacle to the development of an adequate system of sanctions by the League of Nations. To remove this obstacle the pending Capper resolution and the project of the Committee on Economic Sanctions, organized by the Twentieth Century Fund, propose that the United States undertake to consult with other powers as to measures of non-intercourse to prevent the threatened breach of the Anti-War Pact. The adoption by the United States of such a proposal would be a contribution of great importance to the development of world peace.

Are Sanctions Necessary To International Organization?

No - John Dewey

THE problem of the use of sanctions to achieve a peaceful international organization involves many questions. But two great principles run through the complexity of details and reduce them to clarity and order. The first of these principles is that the use of sanctions is impracticable, so much so that any attempt in that direction is sure to make international relations worse instead of better. Even the attempt to push it to the front in discussion is ill-advised, for it distracts attention from the measures likely to be of efficacy in improving the relations among nations. The second principle is that even if the use of coercive force by joint agreement were possible it would be undesirable, since resort to force fastens upon us the war system as the ultimate means of settling international controversies. "Enforcement of peace" is a phrase which combines two contradictory ideas.

I

IN spite of Articles X and XVI in the Covenant of the League, the latter has consistently refused to invoke the use of sanctions. Its record in this respect is without a flaw. This fact is of itself evidence that the notion of applying sanctions is utopian. If the idea is capable of practicable application, how is the policy of the League to be accounted for? If the blame is put on the nations outside the League, it only becomes the clearer that nations are still so divided among themselves that the idea of combined joint action is utopian. If the claim is simply that the Council of the League has failed in its duty, this alternative only proves that even those nations which are most united among themselves are incapable of uniting to employ coercive force.

The statement that the failure of the League is due to the non-adherence of the United States deserves, however, particular attention. As I see the matter, the actual case stands almost at the opposite pole. As a matter of fact it is Americans, those advocating that we join the League, who are most active in urging the policy of sanctions. France is committed to the use of sanctions under especial conditions connected with maintaining the sanctity of the Versailles treaty, and with the added qualification of either an international force with its own staff, or military and naval guarantees from Great Britain and the United States. Some of the smaller nations that are satisfied with the *status quo* think sanctions would strengthen their security against the imperialistic tendencies of the greater powers. But in general the great powers are so much opposed to the invocation of sanctions that their attitude is represented by the statement of MacDonald that reference to them in Article XVI is "dead wood" and should be cut out of the Covenant.

The evidence of the steadfast refusal of the powers to resort to sanctions is found in the history of the League at every emergency which has arisen. Sober students and historians who believe thoroughly in the League have praised it on the special ground that it has resorted only to publicity, to conciliation, to the building up of harmonious public opinion and sentiment. Strangely enough it is only advocates of the League on this side of the ocean who criticize the League for failing to use coercive measures: —possibly because of their remoteness from the factors which actually control European action in international matters. I can think of nothing more unrealistic than urging the impossible—in spite of the appearance of realism which is said to attend the "implementing" by force of the conduct of the League.

Since I cannot go over the whole history of the League, I shall select one case which to me is typical. In connection with Locarno, Great Britain agreed to guarantee the Franco-German frontier, while refusing to guarantee the Polish-German settlement. It was everywhere admitted that Great Britain's attitude was dictated in part by the realization that in the latter case she could not carry the other members of the British Commonwealth of Nations with her. What then is the prospect of Britain's signing a blank check in favor of forcible guarantees to be applied all over the world?

And of course there are other causes for the abstinence of Great Britain. Europe is not a united happy family. Even the nations which were allies in the World War have opposed interests. It would be impossible for Great Britain to surrender her traditional foreign policy to the extent of actually promoting France's hegemony on the continent, such as would be effected if Great Britain cordially assented to sanctions in order to guarantee the war settlements in Eastern Europe. The rivalries of nationalistic interests, the sore spots, the resentments, suspicions, and jealousies which exist among the great powers make the execution of united coercive measures impossible; to try to use them would only increase existing antagonisms and fan a dormant flame into a blaze.

The particular point which has been mentioned is of course but one aspect of France's unceasing demand for a guaranteed security of the perpetual force of the Versailles treaties. As Walter Lippmann wrote in the *New York World* in 1927: "Substitute the word 'revision' for the word 'aggression' and the words 'maintenance of the Paris Treaties' for the word 'security' and you have the real meaning of this interminable debate." Aside from the question of right and justice, conflict of interests will continue to forbid that effective unanimity which is required for the use of sanctions. So far as Great Britain and France especially are concerned, the situation was well stated by a writer in the *Round Table* for June 1928: "When the English-speaking world uses the word peace it thinks of a state of things in which not only there is no war, but in which the political structure is the result of general acceptance and is not merely acquiesed in because there is *force majeure* behind it. When France talks about *la paix,* she means rather the political situation created by the treaties of peace. It is a legal rather than a moral situation."

Suppose a case, apart from any reference to the peace treaties, in which Great Britain, France or the United States was pronounced in such default in meeting an international obligation as to justify, under the terms of the Covenant, an appeal to sanctions. Does anybody believe that they would be put into operation? And what would be the effect upon public sentiment in this country if an effort were made to set them in motion? Would the effect be favorable to the promotion of international organization for peace? If one will face in his thought the picture of the reaction that would occur here, the inevitable inflammation of nationalistic sentiment, he will appreciate the effect on any other strong nation of the invocation of sanctions against it. And why limit the scope of the nations which might be effected by it? In the minds of American advocates of sanctions there seems to exist always an unexpressed premise as to just what nation is to be the guilty party.

Let us take a less hypothetical case. Suppose that in 1929 Russia in her dispute with China in Manchuria had gone as far as Japan went in the same province in 1931-32. The feeling against Russia was, on grounds quite aside from her supposed action in Manchuria, such that sanctions might possibly have been invoked against her. But would it have been possible to convince Soviet Russia or her sympathizers in the rest of the world that the real ground for action was the alleged one? And

how could the sanctions have been executed? How could they have been made effective? Is it not obvious that nothing but an old-fashioned bigger and better war would have served that purpose? And is it not highly probable, practically certain, that there would have been enough domestic opposition in various nations to prevent punitive action? Could labor in Great Britain have been brought to the use of sanctions?

For we are not on speculative grounds in dealing with the case of Russia. There was an economic "quarantine" of Russia attempted at the height of the hostility to and fear of her communism. Russia suffered undoubtedly; many persons were added to the roll of those who starved to death. But in the end it was unsuccessful except in embittering all Russians, independent of their economic philosophy, against the rest of the world. Even nations much weaker than Russia have the power of withdrawing into themselves and enduring until the storm is spent. During the storm, however, old resentments are renewed and the temper which makes for future war is fostered.

I can only conclude that those who mourn and who rebuke the League because it has not chosen to employ the sanction provided for on paper assume a decadence of nationalistic rivalries and ambitions which does not accord with facts. They assume a harmony in the various Chancellories of the world which is non-existent. If the assumption of the existence of this harmony were acted upon, the action would merely accentuate the disagreements which already exist. There may not be the most elevated diplomacy in Europe which is conceivable. But its foreign offices are at least wise enough to realize the danger attending an appeal to sanctions, and hence agree to allow the clauses relating to it in the Covenant to become a dead letter. I can but believe then that the League has been well advised in putting up with rebuffs rather than to adopt the sensational and striking course of resort to coercive measures. That which is academic in American discussions would be fatal in Europe. Nor is the matter wholly academic here. Appeal to sanctions keeps alive and invigorates all the attitudes and convictions which have caused us to remain outside the League. Worse than that, it stimulates the activities of the extreme isolationists; it provides them with ammunition, and all in a cause which is hopelessly utopian.

II

In what I have thus far said I have ignored the distinction drawn by Mr. Buell between economic and military sanctions, in behalf of the former and against the latter. Is this distinction practicable in fact? Certainly it is not authorized by anything in the Covenant of the League. Article X declares that nations agree not only to respect but to *"preserve"* territorial integrity. There is no limit set to the means to be employed; to "preserve" means to preserve. Article XVI states the means to be used. Section one specifies economic and financial measures. But the impression that this section stands complete in itself so that invocation of economic sanctions may or may *not* be followed up by military measures has no warrant in the document. It is opposed to its express terms. The two following sections are integral with the first. For the second section begins, "It shall be the duty of the Council in *such* case to recommend to the several Governments concerned what *effective military, naval and air forces, etc.,*" while the third section obligates member-states to permit passage of troops. From the standpoint of the Covenant, economic sanctions are not a possible substitute for war; they are one of the instruments of war.

Those who make the distinction between economic and military sanctions may at least have something in common with the opponents of sanctions: They should strive to modify radically Articles X and XVI of the Covenant. Even then the question

remains how far the separation is practicable, and whether the framers of the League were not sufficiently realistic in combining the two so that if reference to military sanctions is eliminated, economic sanctions should go too.

First let me say something about the prevailing use of the term "boycott" by the adherents of economic sanctions. Its use is not only loose but is actually misleading. A boycott is a private individual or group affair, non-political in nature:—a refusal to give economic patronage either to a particular firm or corporation or to business representatives of a particular nation. Its nature is indicated by the conditions of its origin in Ireland, and by Indian and Chinese boycotts. Neither the word nor the idea has any application in international affairs. *There* we can have only embargoes and blockades. In the Covenant there is of course no such loose and irrelevant term as boycott. There is *"severance* of all trade or financial relations"; *"prohibition"* of intercourse among nationals, and *"prevention"* of all intercourse between nationals, financial, commercial and even personal. The terms are sweeping enough to remind one of a medieval interdict. In any case, severance and prohibition mean embargoes, while prevention is meaningless without a blockade.

The question then comes up whether economic sanctions can be *successfully* applied without a blockade by land or sea: a recourse to war measures. I doubt if an answer can be given applicable to all cases. In the case of sanctions applied to a weak nation with the practically unanimous and earnest support of all other nations the threat of them might operate. But it seems to me clear that even with a nation which is weak (the case of Russia has already been mentioned) there is no assurance that the threat would be successful unless followed by war-measures, while it seems quite certain that the effect upon public sentiment would be to create great resentment and to foster militarism. The nation against which sanctions are used would feel that it had yielded not to the claims of justice but to superior force, quite as much as if it had been defeated in war.

In many cases, all the precedents go to show that a purely economic boycott would not be successful even against weak nations. I think of Turkey in its war of liberation with Greece. Turkey had constant clandestine French support against the help given by Great Britain to Greece; both the French and Italians joined in smuggling arms and munitions through even a blockade for the sake of profit. I can think of but few cases in which desire for profit and political rivalries would not go far to render a so-called economic boycott ineffective. Even in the World War, with all the military and naval resources of the Allies, the blockade of Germany, openly an act of war, was not completely successful.

There is a great deal of talk of a rather irresponsible sort, intellectually speaking, about putting "teeth" into the League and into the Paris Pact. Everything goes to show that *merely* economic sanctions would be a set of poorly made, easily broken, crockery teeth. Teeth in international affairs mean *teeth*—blockades and other war measures. Mr. Buell is quite right I think in taking the case of Japan as crucial. It is argued that if the League and the United States had made an early demonstration of the intention to apply economic sanctions in case China and Japan did not submit their dispute to some kind of adjudication, the Mukden incident would probably have been quickly settled and the Shanghai campaign prevented. It is of course extremely difficult to deal with historic cases in which it is alleged that if something had happened which did not happen, something else would have or would not have happened. The speculative character of the proposition is not reduced when Mr. Buell urges that the peaceful settlement would have been brought about not only by economic sanctions alone, but that a blockade would not have been necessary for the successful operation of the economic sanction. All that was required, according to

him, was legislation prohibiting the clearance of exports to the "aggressor" state and the entrance of imports from it.

Speculative hypothesis for speculation, mere "prohibition" without "prevention" would not have been successful in deterring Japan from her course, while it would have created resentments most detrimental to the development of a world order and would have played into the hands of the military. We can be pretty sure that Japan would have withdrawn from the League; that, since the United States is the chief importer of her goods, she would have laid up a resentment against us highly provocative of war, ulterior if not immediate, and that the outcome would have strengthened the powerful party in Japan which desires Japan definitely "to go Asiatic."

A realistic appraisal of the probable action of Japan will have to take into account her peculiar position and traditions. Westerners are likely to forget that Japan is not only an island separated from America and Europe but also from Asia, and that for centuries she pursued a deliberate policy of seclusion and exclusion. It is impossible to exaggerate the effect of these conditions upon Japanese mentality. The late war taught us how comparatively easy it is in any case for a government to control public opinion by propaganda and by shutting out all news and information contrary to its case. The task is immensely easier to accomplish in Japan. Since the Japanese public believed with intensity of ardor that its cause against China was just and a matter of national self-preservation, it is unrealistic to suppose that merely passing laws, without a blockade and other show of force, would have altered the policy of Japan, or that its effect would have been other than to increase resentment and add to the prestige of the military party.

The belief that this would have been the case is not a mere matter of speculation. One hundred and thirty-five American missionaries on the ground in Japan signed, without trying to excuse the action of Japan, a statement in which the following sentence is included: "Without necessarily renouncing the use of economic pressure by all the nations against an aggressor as provided in the Covenant of the League we believe in the present circumstances that the threat of an embargo against Japan only serves more fully to unify Japanese public opinion in support of the military policies"—a statement whose moderation makes it the more worthy of credence.

The conception that fear of economic loss will deter any nation whose emotions are inflamed from conducting warfare is disproved by all recent history. Japan is probably the only country in the whole world on whom such fear would have the least deterrent effect. The dread of economic sanctions may be expected to have the most force in those countries in which industrial interests are paramount and in which they have the most weight in civilian government. In Japan the situation is reversed. Prestige lies with the military because of the strength of the feudal tradition, and the military elements are superior to the civilian in the cabinet. All facts go contrary to the belief that a mere legalistic gesture would suffice to swerve the policy of a country where the military have taken the bit in their teeth in a runaway race and have the support of public opinion. To argue for sanctions and "teeth" and then to stop short in their use is as impossible in fact as it is inconsistent in logic.

By retracing what actually did happen in Manchuria one can reconstruct what probably would have happened if there had been the threat by all the powers of economic coercion of Japan—supposing, that is for the moment, that all the powers had had sufficient unanimity of opinion and policy to make the threat. Day after day there were inquiries and protests. Day after day, the civil authorities made explanations, and gave certain conditional assurances about future actions. Day after day the military went ahead with their foreordained plan of campaign, leaving the civilian authori-

ties blandly to explain that the conditions upon which their promises had been based had not been fulfilled. Events moved rapidly. There is no reason to suppose that Japan would not have followed the same course with a threat of economic sanctions impending until she confronted the world with her *fait accompli* in Manchuria. It is not a pleasant spectacle but nothing is gained by concealing from ourselves that this is the kind of world in which we live.

The retort that all this could not happen if the Paris Pact were implemented with force, or if the teeth in the Covenant were used, merely sets before us the original dilemma. Teeth that are not mere false teeth, only paper teeth, signify a blockade and a readiness to go as far as events make necessary in further use of armed force. If successful, it is the kind of "success" which any war brings with it, a success which events have demonstrated is *not* conducive to an organized world order, and which in the case of Japan would have left intense resentment behind and strengthened the supremacy of the military. Without the use of armed force, the show of economic teeth would have produced resentment without any practical effect in Manchuria, and would have left recourse to purely pacific measures in a position more ridiculous than at present. There is one fact that is now assured and not merely speculative. Japan is actually withdrawing her forces from Shanghai, and an official spokesman admits this is done because Japan incurred the "odium" of the rest of the world. Even if she had withdrawn under a threat of coercion (which with a proud nation like Japan is hardly likely), I submit that the after effect in Japan would have been a much sorer and more bellicose attitude than now exists.

It should be added that if international economic sanctions had been adopted, China could not have held aloof; she would have been compelled by forces within and without, to be a party to them. Japan has claimed that the non-official boycott in China was sufficient justification for her Shanghai adventure. Obviously if China joined in an official boycott, the alleged excuse of Japan would have been greatly reinforced. Her intensified sense of provocation would have been the basis for carrying her campaign against China as far as she wished. In all probability, her campaign would have extended up the Yangste valley to Hankow; to Tientsin and Peiping, possibly to Amoy and Canton. All that China gained by refraining from a declaration of war would have been lost.

III

I TURN from the point that economic sanctions cannot be severed from military and still be successful, to another point which bears upon their practicability. Before economic sanctions can be put in operation there must be a determination of the state against which they are to be employed. The term "aggressor nation" is currently employed to describe this state, and it is employed as if it had a recognized standing in the Covenant. In fact it does not appear there, the nearest approach being "covenant-breaking state." But whatever the term, the guilty nation must be settled upon. What is the basis upon which it is assumed that Japan could have been held guilty in time to arrest the Manchurian expedition and prevent the one in Shanghai, even if the rest of the argument for the efficacy of economic sanctions be accepted? The investigating commission to determine the facts of the case has only just arrived in Shanghai—in April, 1932. This fact is a sufficient commentary on the assumption that it is a simple and easy matter to determine the nature and residence of the guilt which justifies the use of sanctions. Doubtless the inquiry might have been expedited; that it could have moved as rapidly as the Japanese army moved, I take the liberty of doubting. And it would have been faced at every step by Japan's claim that the Chinese were the real aggressors, and by the claim that since Japan was being attacked she could not postpone positive action.

There is another special feature complicating the determination of the covenant-breaking state. In its exact form it belongs only to the Sino-Japanese situation, but something corresponding would be found in every complicated dispute between important nations. Japan's claim that China was the real "aggressor" is bound up with the Chinese claim that the treaties ensuing upon the Twenty-One Demands are not valid, because they were secured under duress—and also, as Chinese civilians unanimously believe, by bribery of Chinese officials. Anyway China served notice as soon as she could that she did not regard them as binding. What a fine situation in which to determine which nation is responsible! Imagine the enthusiasm with which France would greet a decision that treaties obtained under duress are invalid! Even as it is, the international commission will, I imagine, skirt this question, contenting itself with scolding China for neglect in observing her treaty duties. What it would have done if the imposition of economic sanctions and the outbreak of a general war had been dependent upon its decision, I will leave the believers in sanctions to pass upon.

IV

It is asserted that the failure to check Japan in her course has strengthened the idea that reliance must be placed on armed force, has weakened the peace movement and the desire for disarmament, and has set back the prospects of world organization. Specifically, it is urged that non-resistance by force has intensified Japan's faith in armed force as an instrument of national policy; has furthered the belief in China that international agencies cannot be depended upon; has aroused fear in Russia which finds outlet in increased dependence upon armed force, and has created unrest and fear of the consequences of disarmament all over the world.

There is sufficient truth in these statements so that I have no desire to deny them. I agree fully with the statement that "had the League and the United States successfully curbed Japanese militarism and secured a peaceful settlement of the difficulties between China and Japan, the international consciousness of the great powers, especially, would have been immeasurably strengthened, a fact which would have greatly facilitated the solution of other pressing international problems." But what does such a statement signify in and of itself save that *if* peaceful measures had achieved a peaceful solution, the state of the world would now be much more pacific than it actually is? So far as it is implied that appeal to sanctions would have "curbed" Japanese militarism (even if we go so far as to hold that the military would have been scared off from their adventure), or more generally still would have secured a peaceful settlement, the statement is either a *non sequitur* or a begging of the question at issue.

It is quite true that pacific means have not up to date been highly successful in restraining Japanese militarism,—although it is probable that there has been an arrest, since it is likely that original plans went much further than Shanghai. But the assumption that threats of coercive force would have really restrained her militarism sound to me much like the pleas we gave way to during the World War, that militaristic opposition to and conquest of German militarism would sound the death knell of all militarism. Instead we have a world more completely armed than in 1914. I submit that by this time we ought to have got beyond the notion that resort to coercive force is going to weaken the tendency to resort to coercive force; it only shifts its focus.

Of course the answer which is constantly made to this point is that there is a great difference between national and international force, between war as an instrument of national policy and international war; that what is now argued for is "international

defense and international sanctions." I do not see that the analogy with the World War is at all weakened by this retort. Nations from the five continents outside of Europe were in arms against the Central powers. That seems to mark a fair approach to international war and international sanctions. In retrospect, however, matters look very much like an old-fashioned alliance for various ends of nationalistic defense and nationalistic aggrandizement. Although there was a "sacred union," the Allied nations do not seem now united even secularly, to say nothing of sacredly. The world has had its lesson as to the power of a union for the exercise of coercive force to create a real harmony of interest and purpose. A coercive combination against Japan might accomplish a decisive victory more quickly than did the combination against the Germanic powers, and with less suffering and destruction. That it would promote genuine world organization for peace seems to me as illusory in one case as in the other.

Since personally I do not think the argument that economic sanctions would cause suffering to the innocent is at all a conclusive argument against employing sanctions (provided there were assurance that they would really be successful in creating an international order of and for peaceful international relations), I shall only make one remark on that phase of Mr. Buell's argument. There are plenty of innocent people in the world suffering at the present time. There can be no justification for adding to their number unless it is clear beyond all reasonable doubt that the addition will really be a factor in promoting a genuine harmony of interests among the nations of the world. And that is just the point to be proved and which has not been proved.

There are certain other points in Mr. Buell's paper which seem to be irrelevant to the main issue, but which I shall touch upon for the sake of completeness. I do not agree with those who urge that resort at present to sanctions is a European idea and opposition to it is an American idea. As I have already said, it seems to me that at present Europeans are altogether too realistic to believe in invocation of sanctions, while it is American advocates of the League who urge their use and who urge us to join with Europe in imposing them. In this attitude these Americans are faithful to the role of Wilson in insisting that this factor be made a part of the Covenant. But it can be said with truth that American opposition to the idea of sanctions was a chief factor in keeping the United States out of the League, and that opposition on *principle* as well as on grounds of practicability was a decided factor in generating the American idea of outlawry of the institution of war—that is of war as a juridical means of settling international disputes. In so far, opposition is an American idea.

It is argued that it is inconsistent for those who oppose international sanctions to join in a *private* boycott of Japanese goods. On the contrary, except for those extreme pacifists who believe that any overt act which may inflict suffering on any one else is wrong, such a boycott is the only form that economic action against Japan can consistently take. It *is* a boycott, not a blockade. It does not involve even a suggestion of political force. It expresses moral disapproval in a way which it is hoped will arouse attention. The assertion that a private boycott runs on all fours with a political, financial and commercial interdict logically implies that Japan is correct in her contention that a Chinese boycott of Japanese goods is justification for armed retaliation on the part of Japan, and that Gandhi's boycott of British goods justifies armed retaliation on the part of Great Britain—a position which even the British party of coercive force has not taken in defence of its action.

My discussion would not be wholly ingenuous if I passed in silence over a phase of the argument which holds that as matter of fact the great nations did not

hesitate to send military and naval forces to Japan in defence of their own national interests. Probably there are some who, independently of their views on the topic of sanctions, would deny this statement. I am not among them. Persons who support the intervention of the United States in Latin America have frequently justified our nationalistic action there on the ground that under the Monroe Doctrine we are really acting as a kind of trustee for European powers. There is another possibility: abstinence from *all* armed intervention. The same is true as to China. The sole alternative to conjoint coercive action is *not* individualistic national action; it is cessation of the policy of protecting, by means of armed force, persons and property voluntarily placed within a jurisdiction where they are endangered. If two great European powers were at war, the United States would not regard it as a hostile act if American property were destroyed when it happened to be located on a field of battle. The same principle can be applied in "backward" countries. All nations might suitably have joined in sending ships to evacuate all nationals endangered by local warfare, but such action as that, while appropriate and desirable, has nothing to do with imposition of sanctions; it is not "defensive" war, national *or* international.

V

The main positive contention for the use of sanctions is that the creation of a "successful international organization" is dependent upon assurance that there is a force at the disposal of cooperative action which can bring the peace-breaker to terms, and that nations will not disarm nor trust themselves to the adoption of exclusively peaceful measures unless there is assurance that an international force will undertake their defense. Short of an international force devoted to keeping the peace it is said that nations will rely upon their own force.

The argument appears to surrender the restriction to economic sanctions. But much more important than this fact is that in as far as it is admitted to have weight, it points straight to the French proposal for an international army and navy under the control of a general staff, while it rests upon the French premise that security is the all important thing, and that security can be guaranteed only by force. If security is the main thing, and if an international army will achieve it and if nothing else will, the conclusion seems to be the necessity of an international army. All the arguments which can be brought against the latter weigh against the premises from which it follows. The argument that international order and a coercive force to enforce peace are so nearly synonymous that we cannot have one without the other proves, if it proves anything, the necessity for a superstate with its own army and navy.

But even so, the argument that the use of sanctions under conditions which now exist is a prerequisite for the creation of an international order puts the cart before the horse. *If* there existed a general concert of interests and harmony of purposes, a specific international organization would at least be practicable of attainment, whether or not it were desirable; and its force might be directed against a recalcitrant nation. But to suppose that the use of combined coercive force is a means of promoting the formation of such an organization—to say nothing of it being the best or only means—is like supposing that individuals can be clubbed into loving each other. It reminds one of the statement given out by the Japanese that they were fighting the Chinese at Shanghai in order to promote the friendly relations of the two nations.

In connection with the argument that organization for coercive purposes (that is, the use of sanctions) is a necessary pre-condition of an internal order, Mr. Buell assumes that the opponents of sanctions believe that "good faith" will *suffice* to create

such an order. I do not know who these optimists are, and I regret that I cannot share their optimism.

It is well-known that conditions can be indispensable without being sufficient. I do not see how world organization of and for peace can be brought into existence without the growth of harmony of interests and community of values along many different lines. I do not know of any single device which will bring it automatically into being. But I can think of no one thing more hostile to the development of this needed harmony and community than the overhanging menace of coercive force. All who oppose the invocation of sanctions in international affairs believe that reliance on informed public opinion and good faith is a *sine qua non.* They also believe that it is a power favorable to the growth of stable peace, while the use of force is by its very consequences hostile to such a growth. This brings us to the other basic principle: the undesirability of recourse to coercive force in order to accomplish international ends, of peace, even if it were practicable.

VI

While I sympathize heartily with criticisms of the dangerously exaggerated nationalism which afflicts the world today and agree with those who hold that it constitutes a situation close to international anarchy, I get the feeling in reading some proposals for remedying the situation that the attributes and activities of national states have been merely transferred over to some bigger substitute organization. It is extremely difficult to get away from concepts and modes of thinking which are sanctified by long tradition. It is much easier to seek improvement by setting up some rearrangement of them in a new pattern than it is to develop new concepts and to think in terms of them.

So in reading about "international war," "international defense," and an international order equipped with coercive powers I cannot escape the impression that policies are being framed and plans formed on the basis of an imagination still in thrall to nationalism, at least to that aspect of nationalism which enthrones force as the ultimate arbiter. I realize that this feeling or impression is no argument, but I record it for what it is worth. In grandiose plans for the world-state, it is certainly clear that the start is made with the idea of the state as at present organized, which is then magnified till all states are absorbed into one. I cannot think that emancipation from the evils of nationalism will be obtained by any manipulation of the elements which constitute the nationalistic state, but only by development of that sort of interaction between social units and groupings that is exemplified in the intellectual, industrial, commercial relations of the states of the Union with one another. It is these interactions operating to effect reciprocal advantage for all concerned that holds the states together in unity, not any political entity superimposed upon them and exercising coercive force upon them.

I do not claim the analogy is perfect, but I think no reasonable person will hold that the coercive force of the federal government is chiefly or in any large degree that which keeps the various states together; or that it is a factor of any great importance as compared with the bonds of common tradition, habits of mind, beliefs, information, intercommunication, commerce, etc., which tie the people of the states together. Nor can I imagine any sensible person today who, when he looks at rivalries of interest and latent frictions between sections which still exist, would urge as a remedy the strengthening of coercive force exercised from above upon them. (We tried "force bills" after the Civil War.) I cannot imagine such a person pro-

posing anything but means which will positively intensify the bonds of common interest and purpose which exist among sections. If civil war were finally resorted to it certainly would not be as a desirable remedial measure but as an awful evil which had to be endured.

Coming to definite arguments, that in regard to the analogy of international coercive power with domestic police power in the enforcement of law seems to have reached a deadlock; the reasons put forth by each side do not seem to have much effect on the other. I cannot refrain however from summarizing the reasons which actuate those which deny the justice of the analogy, since they bear directly upon the fact that international coercive force is a form of war—something admitted by both sides to be undesirable.

The most obvious, but at the same time the least fundamental, reason why the proposed analogy breaks down is that, with respect to the internal affairs of the state, there already exists a body of laws (common and statute) which determines both the material and the manner of the use of force; which decides, that is, both the objects for which public force shall be employed and the exact ways in which it shall be used. There is no provision that force may be used for any purpose which a court at any particular time thinks desirable. There is a large body of regulations and precedents which determine as narrowly as possible the circumstances in which and the ends for which public authority will employ force for purposes of execution and restraint. Police, sheriffs, and so forth, are so far from being allowed to employ any kind of force which they judge may be effective that they themselves act under laws which prescribe and limit their use of force. All of these precedent conditions are notoriously lacking in the case of the so-called police application of international sanctions.

I remarked that this particular defective analogy was not so fundamental as others. It points, however, to one which is fundamental. The reasons why there are laws regulating both substance and procedure in the use of police force is because, within each state where the laws run, there is substantial agreement as to important social interests and values. In other words, the laws do not exist because there is the possibility of the use of coercion for their enforcement, but force can be used because the "laws" apart from coercion are the customs, the agreed upon modes of life, of the community; or else they are declarations of the recognized will of the community by *methods* which in the main are self-enforcing in the life of the community. Laws that are enforced are enforced because there is a community consensus behind them. The threat of force does not bring about the consensus. So at this point the analogy between the domestic police force and the use of sanctions as an agency for promoting the formation of a stable and peaceful international order breaks down completely.

The considerations just adduced bring us to the third element of difference. How can the employment of police force against individuals or at most small gangs be thought to have any similarity to the use of force against an entire nation? Not only would the domestic criminal, if known, be reprehended by all about him, but he is, if the force against him is successful, only an insignificant fraction of the population. If the population of New York State were practically unanimous in refusing to obey a federal law, it would not be police which would be called out if it were decided to use coercion, but the army and navy. The result would be civil war, not the ordinary processes of courts and sheriffs. There may be circumstances in which civil war is practically unavoidable. But I cannot imagine any one saying that it is intrinsically desirable or that it should be provided for in advance because such provision is a necessary means of promoting a peaceful order.

Although I am compelled to believe that the use of police force in executing decisions of courts and other legal bodies is necessary in every stage of human civilization so far attained, I confess I cannot understand the satisfaction which upholders of sanctions find in seeking justification for international force in the fact of police force. I am not such an extreme non-resistant that I believe we can dispense with coercion in domestic matters. But that the use of coercive force in domestic force does an immense amount of harm, that at times it is doubtful whether it accomplishes enough good to offset the evil it does, seems to me clear. Ex-Justice Holmes is on record, if I recall correctly, in expressing a doubt on this very point. Doubtless there are still some persons who cling to the abstract notion of vindictive justice. But most civilized persons today are convinced that coercive and punitive forces are last resorts; that the necessity for appealing to them is itself proof that something is wrong in normal social processes, and that the social ideal is to find the measures which will change the causes which make the invocation of force necessary in particular cases. It is a strange thing to me that in the very country and at the very time when it is so tragically apparent that reliance upon coercive force in domestic matters is a broken reed, there should be an active agitation for treating appeal to coercion as the important and necessary condition of good international relations.

The arguments against the practicability of using sanctions overlap the question of desirability. To a considerable degree their use is impractical because the best judgment of the world instinctively realizes its undesirability. What was said about the practical impossibility of invoking sanctions against Great Britain or the United States may also be cited as evidence of its undesirability. But we may use another illustration. South American countries have not all of them as yet reached a condition of stability in their relations to one another. Disputes between them are unfortunately relatively frequent. How many persons even among those who theoretically give assent to the principle of sanctions would think it desirable that the United States engage in a boycott in every dispute which threatens peace between nations there? Is it desirable that the people of the United States should be so stirred up about the Chaco treaty that they would be ready to impose a boycott on either Paraguay or Bolivia, having first juridically determined just which one is at fault? Where is the thing going to stop if it is once adopted as a principle? And if it is not a principle, then it is merely a convenient dodge or mask for getting us involved in an old-fashioned alliance or war. I do not for a moment believe that it is intended to be the latter; I am speaking only of the logic of the thing. But I do believe that some of those who are ardent supporters of sanctions are still so much influenced by sympathies which grow out of the last war, that they, like the French, can imagine only one particular nation or set of nations as the "aggressor" and hence have never generalized the operation of their principle.

To the opponents of sanctions the points which have been made seem sun-clear. The upholders of sanctions claim, on the other hand, that there is such a real likeness of police force and international sanctions that the latter is as necessary as the former and of the same kind. It is claimed that sanctions and war are radically different. I believe that, however, the world will act upon the honored logic that if the animal looks like a frog, jumps like a frog and croaks like a frog, it *is* a frog. The definition of war is not determined by intellectual pigeon holes nor legalistic distinctions, but by the test of behavior. That which involves general interdictions and blockades, backed with threat of guns and explosives and poison gases, is none the less war because called by another name.

I believe that it is a tragic illusion to think that a sharp line of difference can be drawn between "international war" and other wars. The idea of war itself perpetuates that interpretation and treatment of international relations in terms of force which is the stronghold of the war-system. The custom of curing the bite of a mad dog by swallowing one of his hairs is innocent in comparison with the idea of getting rid of coercive force by the use of coercive force.

When the talk of sanctions is directed against a particular nation, it necessarily stimulates the war spirit in it and in the countries which contemplate the use of sanctions. The case of Japan affords a good illustration. The demands for invoking sanctions against her were, in the American populace at large, directly proportional to the animosity aroused against her. In order to have brought American public opinion to the point where it would have been willing to resort to sanctions, it would have been necessary to dwell upon the wrongs committed by Japan, cruelties, reputed atrocities, until a veritable war spirit had been created. The technique required would have been not unlike that used to create willingness to go to war against Germany, the technique which operated in the case of millions of peace-loving Americans. I am confident that there are many of our citizens, who a few weeks ago would have said they were in favor of a boycott, who are now glad the matter went no further than it did. The difference is that their emotional resentments have cooled off. I do not imply that emotion rather than reason operates in the case of those who argue on principle for the use of sanctions. But I do mean that the general population would sanction sanctions against a particular nation only in the case of long standing animosity, or else an immediate intense emotional outburst, against her. The idea that this state of things would be merely transitory, and that finally a remote impersonal machinery would set sanctions in operation without an emotional flutter in the breasts of citizens of the nations using sanctions does not agree with human nature as I am acquainted with it. One does not set out on a course of coercion to inflict suffering unless one is emotionally excited.

I stated earlier that I had no doubt that the course of Japan had for the time being at least strengthened militaristic influences in the world, although I held that the attempt to coerce Japan into another course would have only made matters worse. There is no inconsistency between admitting the harm done the peace of the world by Japan's course and at the same time holding that in the larger sense Japan's course has not been a striking success. There is probably no case on record in modern times when moral sentiment, public sentiment, has been so nearly unanimous and so spontaneously expressed. The sentiment and its peaceful expression did not cause Japan to desist. But the position of Japan today is not an enviable one, and while a sensible person hesitates to predict the future, there is good ground for thinking that her position in China for the future has been rendered less tenable than it would have been had coercion been resorted to. Japan is all but completely on the defensive in the court of public opinion. She has experienced a moral defeat. It is hard to believe that she can live it down without a change in her policies. Appeal to coercion would have convinced her that she had justice on her side; it would have solidified her intransigeant attitude. Now she will have the opportunity to stand all the hard consequences of her conduct as the consequences of her own conduct, and not as something forced upon her, in spite of her righteous conduct, by the jealousy and ignorance of a hostile world. And if we go outside Japan, I doubt if any nation on earth has had the desire to strengthen, to imitate the conduct which has brought such general condemnation upon Japan. As one who would like to see the real power of the League for peace grow, I believe that her failure to invoke sanctions,

even if Japan did not desist (which she probably would not have done anyway) is a real contribution to the cause of world peace, since her action did something to solidify and express the moral judgment of the world. The settlement of disputes by peaceful measures, provided for by the Paris Pact, is recent; its significance is still far from having penetrated adequately into the public consciousness. For example, apologists for Japan as regards Manchuria still think to exculpate her from blame by making known the provocations she received from the Chinese. Admit for the moment that the case stands just as these apologists claim, and their argument totally ignores the fact that Japan has been arraigned because of failure to use the peaceful measures provided for in the Nine-Power Pact and the Pact of Paris in order to remedy her wrongs. In the degree in which attention is centred on this matter and is not dissipated in the consideration of previous rights and wrongs, we have a new situation in the world and one whose efficacy for peace is immeasurable.

VII

We come now to comparison of the value of sanctions with that of other measures which may be used. First, and with respect to the Paris Pact, I want to say a few words about the subject of "defensive" war. I quite agree with those who hold that "defensive" war logically implies "aggressive" warfare, and the need for some criterion for distinguishing between them. The original idea of the outlawry of war was to outlaw the institution of war and not just some special brand of war. It was pointed out that nothing could destroy the right of self-defense—the same right that an individual has, when violently assailed, to protect himself. This latter right does not depend upon making a distinction between offensive and defensive assault and battery; this is completely outlawed. So with war.

Unfortunately, however, there was not an adequate education of the public in the meaning of the idea of outlawry before its official adoption. Still more unfortunately, there were believers in the necessity of military force among the politicians of the world who strove to give the idea an innocuous meaning, and who tried to turn the fact of self-defense, which is neither a product of law nor capable of being abrogated by law, into the concept of the legality of defensive war. Influential statesmen anxious for the speedy adoption of the Pact indulged in ambiguities. Either M. Briand himself never fully grasped the idea or he was interested in mitigating its force. For in his speech of August 27, 1928, he limited the idea of renunciation of war in a way which left room for introducing the idea of two kinds of war, one of which was not outlawed. He said that it was "war as a means of arbitrary and selfish action" which was outlawed. And several times, as if for the sake of emphasis, he limited the significance of the Pact to "selfish and wilful" war, thus giving ground to those persons who claim that even under the Pact there is a place for a kind of war which is noble and disinterested. Moreover, a number of Americans who had previously ridiculed and opposed the idea of outlawry, and who were devoted to the idea of sanctions, seized upon this loophole; and, making it central in their interpretation of the Pact, brought forward the notion of "international" defensive war.

Consequently there is still an ambiguity in the Pact which can be taken advantage of to sustain the contention that the Pact itself demands international sanctions and war, unless the "defensive war" it permits is to become purely nationalistic. However, there is another and better alternative. That is to clarify international law so that the distinction between the right of self-defense and the concept of "defensive war" is made clear. Had this been done before Japan's incursion into Manchuria,

every pretence on her part that she was fighting a defensive war and therefore had not broken the Pact would have been swept away.

The argument is made that the refusal of other nations to admit the legality of accessions of territory, or other gains, resulting from violation of the Paris Pact will not be adequate; that it is a half-way sanction, but *only* a half-way one. The argument is supported on the ground that past non-recognitions have not operated to prevent nations from enjoying the fruits of their aggression. The argument from precedents overlooks one important difference. The cases cited are refusals of recognition by *particular* nations, as of Great Britain's seizure of Egypt by France, of various undertakings of the United States with respect to Latin American countries. The refusal which is contemplated by the "peace-sanction" (originally suggested by Mr. S. O. Levinson, the author of the Outlawry idea) is one to be exercised by all nations in common, and one which, through the influence of Secretary Stimson, has been officially acted upon by the Assembly of the League. If there is no difference in results to be expected from isolated national action and organized international action, what becomes of the argument regarding the difference between national and international defense, national and international war? The logic of the argument from the failure of national non-recognition to the necessary failure of present and future international non-recognition compels us to conclude that the *only* merit of international sanctions is that it represents a stronger economic and military coercive force.

The argument that non-recognition of say Japan's position in Manchuria will not lessen the ability of Japan to establish herself there so solidly that non-recognition will mean nothing raises hypothetical questions. It ignores to my mind the slow but effective operation of imponderables. But speculative matters aside, it raises the question: Upon what shall those who desire a world organized for peace depend: upon force and the threat of force, or upon peaceful measures in the development of common interests and purposes?

"Peace-sanctions" are not "half-way" sanctions because they are not sanctions at all in the sense of those who argue for economic and military sanctions. For they do not involve the application of coercive force. They are sanctions simply in the sense in which undesirable consequences which flow intrinsically from the performance of an act are sanctions. If a nation obtains territory by means which are juridically banned, then juridically those gains are null and void. To some it will seem unrealistic to put faith upon strictly moral agencies and influences. But it would seem as if the history of war, the history of the consequences of the use of physical and coercive force, were enough to convince reasonable persons who want peace of the unrealistic character of any other means.

We do not insist that good faith and moral pressure are *sure* to operate, that they are bound to be sufficient. But we do say that the measures which can be taken in their name are more promising roads to stable and enduring peace than is recourse to coercion, actual or veiled. It is not now necessary to argue that the possibility of using the latter rests back upon the former, since the pledge to use coercive force depends for fulfilment upon the good faith of the national making it. You cannot employ coercion in an endless regress against those who do not observe good faith. Mr. Buell admits the point. "Admittedly all international obligations in the last resort must rest upon good faith and the force of public opinion." Since this is fact and since it must be the fact, we hold that consistent action upon the basis of the fact is the best way to promote the positive influence of good faith and public opinion, while the habit of continuing to think and act in terms of coercion per-

petuates the ideas and emotions which sustain the institution of war. It correspondingly weakens the operation of the good faith and public opinion which are admitted to be the ultimate reliance.

Any one of us can sympathize with those who are impatient with the present relations of nations and who are indignant with those nations that, after professing a love of peace and promising to forego the use of warlike measures to settle their disputes, fail to live up to their good word. Their breach of good faith has the psychological effect of causing us to doubt the efficacy of all good faith and to imagine that the use of coercion is the only thing which nations will respect. But in spite of a reaction in this direction that is natural because of desire for speedy results, all history and understanding of human nature tells us, I believe, that the view is short-sighted and in the end defeats its own purpose. I am not convinced beyond every peradventure of a doubt that the Outlawry of War will rid the world finally of the war system. If nations insist upon fighting they will do so, just as individuals commit suicide.

But I am sure of two things: First, that if the peoples of nations *want* to have done with war, the Outlawry idea is the best method for giving expression to that desire which has yet been discovered, and, Secondly, that it is fatal for those who welcome the Outlawry idea and who believe in it to play, even in thought, with the idea of sanctions or coercive force. In so doing they, however, unintentionally, reinstate the idea of war and undermine their own position. Devotion to sanctions comes naturally and logically only from those who believe that wars are the inevitable way of settling disputes between nations, and who do not believe that the traditional policies of balance of power and alliances can be done away with. For, in effect, the enforcement of sanctions signifies only that at a given time and for the time being there is an alliance of nations which thinks itself sufficiently strong to restrain by coercion some nation from going to war or else to conquer and penalize that nation if it does go to war. Were it not for the fear that some one would think that I was recommending the idea, I would say that the conception of a *Pax Romana* can be realized more readily by a thorough-going alliance, economic, financial, military and naval, of the British Commonwealth of Nations and the United States than by any scheme of "international defense and war" yet devised.

VIII

In the long run, the efficacy of the Paris Pact, of the Outlawry idea in general, depends upon the growth of community of interests and purposes among the nations of the world. The Outlawry agreement, like any jural arrangement, is protective of interests that exist; it reinforces them with the power of pledged good faith. But there are definite measures which can be adopted that will add to the efficacy of dependence upon good faith and public opinion as expressed in the Paris Pact. I believe that if the energies of those who want peace were united to promote these measures, immensely more would be accomplished for peace than will be effected by keeping discussion and thought fastened upon the use of coercion.

1. The Covenant of the League, by modification of Articles X, XV and XVI, can be brought into harmony with the Pact of Paris. Unless this is done, opposition to the adherence of the United States will continue. The one thing most certain in our foreign policy is that we shall not assign to any group of foreign powers a disposition of our own decision as to our future course of action in matters involving

war and the threat of war. Quite aside from the attitude of the United States, such action will prevent different methods and measures from assuring peace from interfering with each other and virtually encouraging war-like action—an interference which unfortunately took place in the Sino-Japanese embroglio.

2. There can be formally adopted as a part of international law the principle that all occupations, privileges, possessions that are effected in violation of the Peace Pact, that is by acts which are not consonant with the pledge to use only peaceful measures in settlement of disputes, shall be juridically null and void. The principle has been endorsed by the Assembly of the League and can and should be officially incorporated into international law.

3. There should be adopted into international law the principle that any dispute or controversy not brought to settlement by the ordinary processes of diplomacy, or by mediation, conciliation, arbitration, etc., shall remain in *status quo*.[1] Doubtless this idea is implied in the Paris Pact but if it were made explicit and nations were to pledge themselves to it, a given violation of the Pact would stand out more clearly and the response of public opinion would be quicker and more pronounced.

4. The fundamental distinction between the right of self-defense and the concept of defensive war should be established in international law.

5. The United States should adhere promptly to the World Court to which should be referred, with a view to the enlightenment of public opinion and the unification of the moral judgment of the world, any and every case in which there is a claim that the terms of the Pact have been violated, when the question is not settled by the ordinary means of negotiation among nations.

Finally, it should go without saying that these measures are additional to and not substitutes for the increased use of all possible means of consultation, conference, mediation, arbitration, and all other possible agencies of peaceful settlement. Let us throw our energies into strengthening them and not, because they and the Pact have not as yet been completely successful, fall back upon the continued use of coercive force.

1. This suggestion like the one in the preceding paragraph is due to Mr. S. O. Levinson and was first made public in the *Christian Century* for February 3, 1932.